

| | | |
|---------------------|---|---------------------------------------|
| CITY OF MCMINNVILLE |) | ORDER AFFIDAVIT OF ELIGIBILITY |
| vs. |) | |
| |) | Case Number: _____ |
| Defendant |) | Offense: _____ |

I, the undersigned, bring duly sworn, say that I am before the court for the charge(s) listed above. I am asking for appointment of an attorney to represent me because I cannot pay for an attorney now without causing substantial hardship to my dependent family or myself. The following information is true, and I ask the court to use the information to decide whether I qualify for an appointed attorney. I understand that I can be required to document or verify this information. Failure to do so could result in my request being denied or, if counsel has already been appointed, the withdrawal of counsel. I understand that if I do not tell the truth I can be charged with a crime.

Full Name:_____ DOB:_____

Residenceaddress:_____

Mailing address (if different):_____

Phone number: _____ Message phone number:_____

Marital status:_____

List the following for everyone living in your household: (family members, roommates, etc.):

| Name | Relationship | Age | Income |
|------|--------------|-----|--------|
|------|--------------|-----|--------|

NOT APPLICABLE

Employer:_____ How long?:_____ Occupation?:_____
Address:_____ Phone number:_____
Hourly wage: _____ Average hours per week (include overtime):_____
Net monthly income (after taxes):_____
IF UNEMPLOYED, HOW LONG SINCE LAST EMPLOYMENT? _____
If you do not have a source of income, then how are you supported?_____
Previous Employer:_____ How long?: _____ Occupation?:_____
Address: _____ Phone number:_____
Hourly wage: _____ Average hours per week (include overtime):_____
Spouse's Employer:_____ How long?: _____ Occupation?:_____
Address:_____ Phone number:_____
Hourly wage: _____ Average hours per week (include overtime):_____
IF SPOUSE UNEMPLOYED, HOW LONG SINCE LAST EMPLOYMENT? _____
Other income for you and spouse, dependents or household members. (Social security public assistance, child support, food stamps, workers disability, retirement, unemployment

| Source of income | Amount | How long received | How often received |
|-------------------------|---------------|--------------------------|---------------------------|
|-------------------------|---------------|--------------------------|---------------------------|

[illegible]

III. PROPERTY AND ASSETS

Cash Available \$_____ If in custody, amount in jail or trust account \$_____
Checking Account at Bank/Credit Union _____ \$_____
Savings Account at Bank/Credit Union _____ \$_____
Real Estate: Address Value Amount Owed Equity Payments made to:

____ Not applicable

Credit Card(s): Card Name/Bank _____

Balance Owing: _____

\$ _____

\$ _____

____ Not applicable

Motor Vehicle(s): Make, year Value Amount Owed Equity Payments made to:

\$ _____

\$ _____

All other property or assets: (tax refund, trust, settlement, judgment, etc.) _____ **not applicable**

Money owed to you or spouse by others: (tax refund, trust, settlement, etc.) _____ **not applicable**

Name of Debtor

Amount Owed

Name of Debtor

Amount Owed

IV. MONTHLY EXPENSES List all expenses that are paid out monthly:

Rent/Mortgage \$_____ Utilities \$_____ Child support \$_____ Credit Card(s) \$_____
Court payments \$_____ Car payment \$_____ Insurance \$_____ Other \$_____

____ **Not applicable**

Do you have parents or relatives who can assist you in obtaining counsel? ____ **Yes** ____ **No**

If yes, Names: _____ Address: _____

V. APPLICANT HISTORY

I have \$_____ bail posted on this case or other pending charges. Have you ever requested a court appointed-attorney on this case before? ____ **Yes** ____ **No**

If yes, were you granted an attorney? ____ **Yes** ____ **No** Attorney's name: _____

I agree that if I receive the services of a court appointed attorney, I may be required to reimburse the city for attorney fees and costs paid on my behalf, as ordered by the court even if I fail to contact the attorney appointed to represent me.

Signature of Defendant

Date

STATE OF OREGON)
) ss.
County of Yamhill)

Subscribed and sworn to me on this ____ day of _____, 20____

Notary Public for Oregon

My Commission Expires: _____

CC: Returned to defendant on date: _____ incomplete ____ not legible ____ documents missing INI _____

And the Court being otherwise fully advised, NOW THEREFORE, Defendant's request for a court-appointed attorney is hereby:

____ **DENIED** Reason: ____ Required documents not filed ____ Application/forms incomplete

____ Not legible ____ Income/Assets

____ Late filing; less than 30 days from trial or hearing

____ **GRANTED**; Attorney _____

Dated this _____ day of _____, 20____

McMinnville Municipal Court Judge

**MCMINNVILLE MUNICIPAL COURT
RELEASE TO OBTAIN INFORMATION FOR
VERIFICATION OF INFORMATION ORS 135.050**

Defendant

Case Number/Offense

I understand that the court verifies my employment and financial situation to determine my eligibility for a court appointed attorney. I understand that some of the information necessary for this verification is contained in records that may be protected by federal and state laws. Because of this, I have signed releases below which allow public and private organizations and individuals to provide the McMinnville Municipal Court with requested information. I understand that organizations and individuals that may be contacted, but are not limited to:

Social Security Administration, State Dept. of Revenue, Mortgage Holders, Dept. of Motor Vehicles, Employment Division, Utility Companies, Workers Compensation Disability Provider, Adult & Family Services, Landlords, Private Disability Insurance Provider, Private Life Insurance Provider, Past Employers, Release Assistance Office, Credit Card Holders, Credit Bureaus, Banks, Savings & Loans, Credit Unions, checking, loan, and credit information including copies of applications, schools, colleges, etc.

Specifically, by signing the release below, I authorize the McMinnville Municipal Court authority to:

I. Directly contact or Directly receive information

1. Directly contact my current employer(s) by telephone or in writing and to release and utilize my address as needed by the McMinnville Municipal Court.
2. To have information, that is protected by federal and state law, released directly to the McMinnville Municipal Court

II. Authority for the Employment Division to release information

1. I also authorize the Employment Division, State of Oregon, to release any information on my records on file with the Employment Division directly to the McMinnville Municipal Court

III. Authority for the McMinnville Municipal Court to release information

1. I also authorize the McMinnville Municipal Court to release information, including generally confidential information such as but not limited to, non-compliance reports from Yamhill County Mental Health, to my attorney of record

I understand that this release will remain in effect until final disposition of the charges listed above, including any probation that may result from conviction of the charges listed above.

I understand that information that I provide and that the Court may receive as a result of this release of information is generally confidential. I understand that my address may be released to other court staff to update court records or be released, if necessary for verifying any financial information.

I further understand that if the Court has reason to believe that I knowingly falsified the information on my financial statement, this information may be sent to the McMinnville City Prosecutor or the Yamhill County District Attorney to review for possible filing of False Swearing Charges (a Class A Misdemeanor punishable by a fine and or a jail sentence).

Information provided in the Affidavit of Eligibility may be used in a hearing to determine eligibility for Court Appointed Counsel, for sentencing and for collections purposes, if necessary.

I understand that failure to or refusal to sign this Release of Information may result in denial of my request for Court Appointed Counsel.

Defendant Signature

Date

ADVICE OF RIGHTS AND PROCEDURES FOR COURT APPOINTED ATTORNEY
ORS 135.040, 135.050, 161.665, 151.487
RIGHT TO ATTORNEY and APPOINTMENT OF COURT APPOINTED ATTORNEY

1. A person charged with any criminal offense has a right to be represented by an attorney. A person also has a right to self-representation, without an attorney's assistance. In deciding whether you wish to represent yourself, and thereby give up the right to an attorney, you should consider the following factors: The type of charge and the maximum punishment which could be imposed; the fact that conviction of a new offense may result in revocation of any probation which you are currently serving, and the elements of the crime(s) pending against you. You should also be aware of, and consider the following dangers and risks associated with self-representation: You may possess some potential factual, legal or mental defense that a lawyer may be able to help you understand and evaluate; it is an attorney's job to investigate your case, raise challenges to the case, obtain evidence, and call and cross-examine witnesses; an attorney could plea bargain with the enforcing government agency; an attorney could explain courtroom procedures and the law and could argue your side of the case in a way that is beneficial to you; an attorney knows sentencing procedures and guidelines and could explain those to you; and because of their legal experience and training, an attorney would be able to assist you in many ways, other than those just identified. If you decide to proceed without an attorney, you will have waived any and all assistance that an attorney would have been to you.

2. If you are charged with a misdemeanor, contempt or probation violation, you are entitled to a court-appointed attorney at public expense if you cannot afford to hire your own attorney. You will need to fill out an affidavit which is a sworn statement concerning your ability to pay for an attorney. The statements contained on the affidavit will be verified. Be sure that your affidavit is correct. If it is not, you could be charged with the crime of False Swearing (a class A Misdemeanor)

3. Persons who are determined to be eligible for indigent defense services, but who are determined to have some financial resources available will be required to contribute toward the costs of their defense prior to the conclusion of the case regardless of disposition.

Procedures that YOU MUST COMPLY with for appointment of counsel:

1. Read and sign the Advice of Rights and Procedures to file an affidavit of eligibility for a court appointed attorney
2. Read and sign the Release to Obtain Information for verification of the financial information you submit.
3. Complete the Affidavit of Eligibility. All requested information must be provided and must be legible. Your affidavit must be notarized. You must have your affidavit notarized by a notary public of your choice at your own expense. You may return to McMinnville Municipal Court to have your affidavit notarized. There is a \$10.00 fee per signature to have your affidavit notarized by McMinnville Municipal Court staff.
4. Make copies of all documents supporting your affidavit which must be filed with your affidavit. If you do not have the funds to make copies of your documents, the cost is \$5.00 for the first 20 copies and \$0.50 per additional page. Do not mail original documents – the Court will not mail original documents back to you.
5. File your notarized Affidavit of Eligibility and requested documents with the Court as specified. You may do so by mailing these documents to the Court. If you need your affidavit notarized and/or need copies of your documents made by the Court staff, to minimize the length of time you may need to wait, you should request assistance Tuesday 9:30 am to 11:00 am or Thursday 1:30 pm to 3:00 pm. If you request help by Court staff at hours other than specified, you may be asked to wait until after other individuals have been assisted.
6. When documents are filed with the Court, a staff member will review your affidavit and supporting documents. You will be advised if any further information is required. Your request for a court appointed attorney will not be considered until all requested information has been provided.
7. You will be notified by mail if your request for a court appointed attorney has been granted.
8. If you are granted a court appointed attorney, you must contact your attorney within one week to schedule an initial interview. It is your responsibility to schedule this appointment. You must leave a phone number where you can be reached between 8:00 am and 5:00 pm during the workweek Monday through Friday. If you do not have a phone number where you can be reached, you may provide a message number. You must also provide a mailing address. If you do not have either a phone or a permanent address, you will be required to comply with additional procedures to obtain a court appointed attorney. If your appointment of counsel is granted and mailed to the address listed on your Affidavit of Eligibility is returned to the court as undeliverable or due to an insufficient address, your request will be considered withdrawn and denied by the Court.
9. You must remain in contact with your attorney to discuss your case.
10. A trial notice will be mailed to you by your attorney and you must contact your attorney within 2 weeks.

I have been advised of my rights, my financial obligations, procedures and consequences of failing to follow these procedures, and do not have any questions concerning an appointment of a court appointed attorney.

I understand my rights possible financial obligations and procedures to obtain a court appointed attorney and the consequences of failing to follow these procedures.

I agree that if I fail to follow these procedures or if I fail to make or remain in contact with my court appointed attorney, or if I fail to appear with my court appointed attorney at trial, I have deliberately chosen to waive my right to a court appointed attorney on this case.

Printed Name:_____

Mailing Address:_____

Date of Birth:_____ Phone #:_____

Date:_____ Signature:_____

MCMINNVILLE MUNICIPAL COURT
230 NE 2ND Street, McMinnville, OR, 97128
(503) 434 – 7402

Documents required for your request for Court Appointed Attorney

Filing Deadline: File your application along with your \$20.00 application fee and documents within two weeks of the date you entered your not guilty plea

ORS 161.665, ORS 151.487, ORS 135.040-135.050 provides for **verification of all financial information**. As part of this review, **you must file the following documents with your Affidavit of Eligibility**.

I. PERSONAL INFORMATION

1. Proof of mailing address: Copy of postmarked envelope showing receipt of mail in your name and the mailing address listed on the Affidavit of Eligibility.

Warning: If your notice of appointment of counsel mailed to the address listed on your Affidavit of Eligibility is returned to the Court as undeliverable or due to an insufficient address, your request will be considered withdrawn and denied by the Court.

2. No mailing address provided: If you are unable to provide a mailing address, the Court will set a date and time for you to appear in court to obtain the status of your request for a court appointed attorney. Your attorney will not be appointed until you appear as directed.

II. EMPLOYMENT AND INCOME – OR SOURCE OF SUPPORT

1. Present Employer: Pay stubs or any records relating to or showing your gross earnings, payroll deductions, net earnings and income from any source during the last three months, including LES and DD2058, BAH, BAS.
2. AND/OR: All records with respect to all income earned by you from any and all sources during the past calendar year, if income tax returns for that year have not been filed, include all W-2 and 1099 forms which may have been issued to you including LES and DD2058, BAH, BAS and any income not included in your prior tax return year.
3. If not employed AND/OR you have declared one or more of the following as your source of support you must provide documentation of any income or support declared on your affidavit:
 - a. Unemployment: Copy of your unemployment benefit
 - b. Social Security Benefits: Copy of your benefit amount
 - c. Public Assistance: Copy of your AFS Benefit Award Notification
 - d. Child Support: Copy of your Child Support Order
 - e. Workers Disability: Copy of your claim acceptance
 - f. Food Stamps: Copy of your benefit amount
 - g. Retirement: Copy of a document verifying retirement income
4. Copy of items number 1 through 3 for income of spouse/partner/dependant or household member if applicable.

FAILURE TO PROVIDE REQUESTED INFORMATION MAY RESULT IN DENIAL OF YOUR REQUEST FOR A COURT APPOINTED ATTORNEY.

Contact the Court at 503-434-7402 if you are unable to meet your filing deadline. If you file your request less than 30 days prior to your court date, your request may be denied due to late filing of affidavit unless you can provide sufficient proof of extenuating circumstances for the Judge to review.

Contact the Court if you need assistance with this application

Application assistance hours: Tuesday 9:30 am to 11:00 am and Thursday 1:30 pm to 3:00 pm

If you request assistance with this process in person at a time other than that specified above, you may be asked to wait until other individuals have been assisted.

MCMINNVILLE MUNICIPAL COURT PROCEDURES THAT YOU MUST COMPLY WITH FOR COURT APPOINTMENT OF COUNSEL:

1. Read and sign the Advice of Rights and Procedures to file an Affidavit of Eligibility for a court appointed attorney.
2. Read and sign the Release to Obtain Information for verification of the financial information you submit
3. Complete the Affidavit of Eligibility. All requested information must be provided and must be legible. Your affidavit must be notarized. You must have your affidavit notarized by the notary public of your choice at your own expense or return to the Court to have your affidavit notarized, there is a \$10.00 fee per signature.
4. Make copies of all documents supporting your affidavit (a list will be provided for you) which must be filed with your affidavit. Do not mail original documents – the Court will not mail original documents back to you. Document requirement waived if application filed while in custody.
5. File your notarized Affidavit of Eligibility and requested documents with the Court as specified and pay the \$20.00 application fee to the court. You may do so by mailing these documents to the Court. If you need your affidavit notarized and or need copies of your documents made by the Court staff, to minimize the length of time you may need to wait, you should request your help Tuesday 9:30 am to 11:00 am and Thursday 1:30 pm to 3:00 pm. If you request help by Court staff at hours other than specified, you may be asked to wait until other individuals have been assisted.
6. When documents are filed with the Court, a staff member will review your affidavit and supporting documents. You will be advised if any further information is required. Your request for a court appointed attorney will not be considered until all requested information has been provided.
7. You will be notified by mail if your request for a court appointed attorney has been granted. If you do not provide a mailing address, it is your responsibility to contact the court to obtain the information.
8. If you are granted a court appointed attorney, you must contact your attorney within one week to schedule an initial interview. It is your responsibility to schedule this appointment. You must leave a phone number where you can be reached between 8:00 am and 5:00 pm during the workweek Monday through Friday. If you do not have a phone number where you can be reached, you may provide a message number. You must also provide a mailing address. If you do not have either a phone or a permanent address, you will be required to comply with additional procedures to obtain a court appointed attorney. If your appointment of counsel is granted and mailed to the address listed on your Affidavit of Eligibility is returned to the court as undeliverable or due to an insufficient address, your request will be considered withdrawn and denied by the Court.
9. You must remain in contact with your attorney to discuss your case.
10. A trial notice will be mailed to your attorney. You must contact your attorney within two weeks of your notice of appointment of counsel.

You have been advised of your rights, your financial obligations, procedures and consequences of failing to follow these procedures, and did not have any questions concerning an appointment of a court appointed attorney.

You acknowledged that you understand your rights, possible financial obligations and procedures to obtain a court appointed attorney and the consequences of failing to follow these procedures.

You agreed that if you failed to follow these procedures or if you failed to make or remain in contact with your court appointed attorney, or if you failed to appear with your court appointed attorney at trial, you have deliberately chosen to waive your right to a court appointed attorney on these case(s).

Should circumstances change in any material way, you are obligated to promptly notify the Court as well as your attorney.

Application due _____
Incomplete application will **not** be accepted
Read application carefully

- ✓ \$20.00 filing fee
- ✓ **Notarized** signature on last page
- ✓ **Proof** of mailing address
- ✓ **Copies** of income/earning information
- ✓ **Copies** of spouse/partner/dependant/household member income/earning information
- ✓ **Proof** of government assistance

Application due _____
Incomplete application will **not** be accepted
Read application carefully

- ✓ \$20.00 filing fee
- ✓ **Notarized** signature on last page
- ✓ **Proof** of mailing address
- ✓ **Copies** of income/earning information
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- ✓ **Proof** of government assistance